

HOUSE No. 3533**The Commonwealth of Massachusetts**

PRESENTED BY:

Byron Rushing*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act to Restore Enforcement of Civil Rights.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Byron Rushing	9th Suffolk
William Lantigua	16th Essex
Martha M. Walz	8th Suffolk
Jay R. Kaufman	15th Middlesex
Tom Sannicandro	7th Middlesex
Gloria L. Fox	7th Suffolk
David P. Linsky	5th Middlesex
Frank I. Smizik	15th Norfolk
Matthew C. Patrick	3rd Barnstable
Kay Khan	11th Middlesex
Willie Mae Allen	6th Suffolk
Steven J. D'Amico	4th Bristol
Mark V. Falzone	9th Essex
Denise Provost	27th Middlesex
Sarah K. Peake	4th Barnstable
Jeffrey Sánchez	15th Suffolk
John W. Scibak	2nd Hampshire
David B. Sullivan	6th Bristol
Alice K. Wolf	25th Middlesex

Joyce A. Spiliotis	12th Essex
Cory Atkins	14th Middlesex
Anne M. Gobi	5th Worcester
Benjamin Swan	11th Hampden
Paul McMurtry	11th Norfolk
Ellen Story	3rd Hampshire
Alice Hanlon Peisch	14th Norfolk
Sean Garballey	23rd Middlesex
Anthony D. Galluccio	Middlesex, Suffolk and Essex
James J. O'Day	14th Worcester District

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT TO RESTORE ENFORCEMENT OF CIVIL RIGHTS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Section 11 of Chapter 12 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting a new section 11M as follows:—

(a) No unit of State, county, or local government shall:—

(1) exclude a person from participation in, deny a person the benefits of, or otherwise subject a person to discrimination in any program or activity on the grounds of that person's race, color, national origin, or sex; or

(2) utilize criteria or methods of administration that have the effect of excluding persons from participation in, denying persons the benefits of, or otherwise subjecting persons to discrimination in any program or activity because of their race, color, national origin, or sex.

(b) Any person aggrieved by conduct that violates subsection (a) may bring a civil lawsuit, in a State court, against the offending unit of government. This lawsuit must be brought not later than 3 years after the violation of subsection (a). A violation of this section is established if, based on the totality of the circumstances, it is shown that any individual has been denied any of the rights protected by subsection (a). If the court finds that a violation of paragraph (1) of subsection (a) has occurred, the court may award to the plaintiff actual and punitive damages and if the court finds that a violation of paragraph (2) of subsection (a) has occurred, the court may award to the plaintiff actual damages. The court, as it deems appropriate, may grant as relief any permanent or preliminary injunction, temporary restraining order, or other order.

(c) Upon motion, a court shall award reasonable attorneys' fees and costs, including expert witness fees and other litigation expenses, to a plaintiff who is a prevailing party in any action brought:—

(1) pursuant to subsection (b); or (2) to enforce a right arising under the Massachusetts Constitution.

In awarding reasonable attorneys' fees, the court shall consider the degree to which the relief obtained relates to the relief sought.

(d) For the purpose of this Act, the term “prevailing party” includes any party:—

(1) who obtains some of his or her requested relief through a judicial judgment in his or her favor;

(2) who obtains some of his or her requested relief through any settlement agreement approved by the court; or

(3) whose pursuit of a non-frivolous claim was a catalyst for a unilateral change in position by the unit of State, county, or local government relative to the relief sought.

(e) Nothing in this section shall be intended to require a plaintiff seeking to enforce the protection afforded herein to exhaust any administrative remedies applicable to discrimination actions under other laws.